

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

Chapter 11

WESTMORELAND COAL COMPANY, et al.,

Case No. 18-35672 (DRJ)

Debtors.

(Jointly Administered)

**MAR-BOW'S EMERGENCY MOTION TO UNSEAL ITS EMERGENCY MOTION
FOR SPOILIATION HOLDING AND REQUEST FOR AN ADVERSE INTEREST**

(This relates to Dkt. 2825.)

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE.

TO THE HON. DAVID R. JONES, CHIEF UNITED STATES BANKRUPTCY JUDGE:

1. Mar-Bow filed its *Emergency Motion for Spoliation Holding and Request for an Adverse Inference* (“**Spoliation Motion**”) last night under seal. Dkt. 2825.
2. Emergency relief is requested in both the Spoliation Motion and this Motion to Unseal because the Court’s resolution of the spoliation issue may bear on whether certain testimony may be permitted in the ongoing trial, which is set to resume at 9am on February 26.
3. The Spoliation Motion was filed under seal because it references some documents and exhibits that McKinsey designated as “Confidential” or “Highly Confidential” under the *Amended Stipulated Protective Order*. Dkt. 2618.
4. Mar-Bow has requested that McKinsey de-designate the relevant documents so the Spoliation Motion can be re-filed unsealed. As of this filing, McKinsey has neither agreed nor provided a basis for why the cited information should remain concealed.
5. Mar-Bow does not believe any of the information referenced in the Spoliation Motion is sufficiently sensitive to satisfy the requirements of section 107.
6. Mar-Bow therefore asks the Court to unseal the Spoliation Motion.

[Signature blocks on following page.]

Respectfully submitted, February 24, 2020.

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Certificate of Service

I certify that on February 24, 2020, I caused a copy of this pleading to be filed through the Court's electronic filing system and thereby served all parties registered to receive such service.

/s/ Christopher Murray

Christopher Murray